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IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF APPEALS
AND INTERFERENCES

Pat nt Application

Inventors: **A.D. Flockhart**
E.P. Mathews
J.Z. Taylor
Case No.: **Flockhart 15-19-1**
Serial No.: **09/776,937** Group Art Unit: **2122**
Filing Date: **17 June 1999**
Examiner: **Chameli Das**
Title: **Customized Applet-On-Hold Arrangement**

Commissioner For Patents
PO Box 1450
Alexandria, VA 22313-1450

SIR:

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Respectfully submitted,

A.D. Flockhart, et al.

By David Volejnicek
David Volejnicek
Corporate Counsel
Reg. No. 29355
303-538-4154

Date: 4 May 2004
Avaya Inc.
Docket Administrator
307 Middletown-Lincroft Road
Room 1N-391
Lincroft, NJ 07738

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APPLICANTS'/APPELLANTS' APPEAL BRIEF

This is an appeal from anticipation and obviousness rejections of claims of an application relating to activity at a user's terminal while the user's communication is on-hold. Appellants request that the Board reverse the rejection as erroneous.

TABLE OF CONTENTS

REAL PARTY IN INTEREST

The real party in interest is Avaya Technology Corp., the assignee of the above-identified application, as evidenced by the Assignment from the inventors to Avaya Inc. recorded on Reel 011866 Frame 0077 of the United States Patent and Trademark Office assignment records, and by the Assignment from Avaya Inc. to Avaya Technology Corp., mailed to the US Patent and Trademark Office but not yet recorded.

RELATED APPEALS AND INTERFERENCES

None.

STATUS OF CLAIMS

Claims 1-27 are pending. Claims 1, 3, 5-19, 23-25, and 27 stand rejected under 35 U.S.C. §102(e) over U.S. patent number 6,332,154 (Beck et al.). Claims 2, 4, 20-22, and 26 stand rejected under 35 U.S.C. §103 (a) over Beck et al. in view of U.S. patent number 6,064,491 (Matsumoto).

The appealed claims are claims 1-27.

STATUS OF AMENDMENTS

No amendments to the claims were filed subsequent to final rejection.

SUMMARY OF THE INVENTION

The inventors have invented a new way of occupying/interacting with a user of a communication terminal whose communication (e.g., call) has been put on hold. Their invention is an improvement over the "music on-hold" manner of occupying an on-hold party.

"Music-on-hold" type of arrangements transmit information to the on-hold party's communication terminal from a server (such as an ACD

system of a call center) while the party's communication is on hold. This ties up network and server resources, and limits the way in which the party's on-hold experience can be enhanced. (Page 1, lines 18-24.) According to the invention, however, an applet (an application computer program, 98 in Fig. 1) is customized (206-208 in Fig. 2) for the on-hold party and then the customized applet is downloaded (210) from a server (106) to the on-hold party's communication terminal (100) and executed (212) on that terminal to interact with or otherwise occupy the on-hold party while the party's communication is on hold. (Page 2, lines 2-8.) This provides an opportunity to create richer, unique, and customized experiences for the on-hold party and to do so without tying up network (102-105) and server (106) resources. (Page 2, lines 8-13.)

ISSUES

The issue presented for review is whether the teaching of the applied prior art supports the rejections of claims 1-27.

GROUPING OF CLAIMS

For purposes of this appeal, the appealed claims are all grouped together in one group.

ARGUMENTS

A. The point of contention.

The only point of contention between applicants and the Examiner appears to be whether a customized application program called a "wizard" that is disclosed by Beck et al. executes on a server or on a user's computer.

In the final Office Action, the Examiner asserted that Beck et al. disclose the customizable wizard as executing on the user's computer while the user is on hold, and that Matsumoto disclose alerting a user that a communication is about to be taken off-hold and ceasing program

execution in response to the communication being taken off-hold. In their response, applicants pointed out that the wizard executes on a server and not on the user's computer, and that Matsumoto merely discloses a facsimile apparatus that changes its status between an on-line and an off-line (as opposed to on-hold and off-hold) mode of operation.

In the Advisory Action, the Examiner merely reasserted that the wizard of Beck et al. executes on the user's computer. And, for purposes of this appeal, applicants assume that the wizard may execute while the user's computer is on hold. Consequently, the only issue in contention is whether the wizard of Beck et al. executes on a server or on the user's computer.

B. The disclosure of Beck et al.

In summary, Beck et al. disclose that a self-help wizard can be customized for a particular user with user-specific information. The wizard executes in a multimedia communications center. It presents itself to a user as a web-page window. The user's computer connects to the wizard in any one of a plurality of media via an Internet connection. If the user's computer lacks a requisite media driver, the user can download that media driver from the wizard to the user's computer.

This summary is substantiated in the following discussion.

1. The wizard is executed by an enterprise-hosted communications center (MMCC), not by the user's computer, and remotely communicates with the user's computer.

Beck et al. disclose a multimedia call/communications center (MMCC) 17 operating under control of a customer-interaction network operating system (CINOS) (col. 8, lines 55-59). A media-independent self-help wizard 423 (Fig. 20) is provided for use by clients of MMCC 17 and other CINOS users (col. 59, lines 48-51). The wizard is a part of the operating system of the MMCC and provides a graphical interface to a

connected client (col. 5, lines 25-33). The wizard is provided as a web-based customer interface such as a window 133 of Fig. 5 (col. 59, lines 54-60; col. 60, lines 4-9; col. 63, lines 27-34). A customer-facing media interface such as the window 133 defines an access point, a portal, for accessing center 17 (col. 15, lines 4-65). The window 133 is part of an enterprise's web page, implemented by CINOS, and is accessed by users through an Internet connection (col. 15, line 66, to col. 16, line 8). Window 133 is presented to a user when the user logs into system 17 (col. 19, lines 5-6 and 14-20).

2. The wizard and the user's computer communicate with each other using various media.

The user interacts with the window/wizard via a medium selected by the user (col. 5, lines 43-47; col. 16, lines 32-34; col. 60, lines 39-46). When a client logs into the system, interaction between the enterprise entity and the client begins with a media type that is offered by the enterprise and selected by the client (col. 19, lines 21-23). The self-help wizard system provides an interface by which a connected client may select a particular media for receiving help (Abstract lines 5-7, and col. 5, lines 32-35). The self-help wizard then establishes an interactive communication with the client in the selected medium (Abstract lines 7-12, and col. 6, lines 1-2). To enable the wizard to communicate with the user's computer in various media, the wizard has a desktop interface module 443 and a media support module 445 that provide APIs and media drivers for communicating with the media viewers and other such entities of the client's computer (col. 62, line 53, to col. 63, line 2).

3. Media drivers, not the wizard, are downloaded to the user's computer.

What is downloaded to and executed on the client computer are media-enabling programs (media viewers and drivers) that allow the client

computer to access the self-help wizard in the enterprise center. A client's computer interacts with the wizard via a browser, or some other communication or viewer applications (col. 62, lines 53-57). Specialized media viewers, document format converters, text viewers, and similar conventions may be part of the client's computer's browser plug-ins (col. 62, lines 53-63). If the client's computer lacks a requisite media driver, it may be downloaded to the client's computer through the desktop interface module (col. 63, lines 3-5).

4. The media drivers are not what is customized for the user.

Media viewers that are offered to clients are application-independent (col. 20, lines 14-16). It is the content of the communications provided by the wizard to the client that is customized for the client (col. 61, line 8, to col. 62, line 52). In contrast, the display modules and viewers are default or standard (col. 27, lines 33-45; col. 28, lines 48-50).

C. Beck et al. do not anticipate the claimed invention.

The disclosure of Beck et al. does not meet the requirements of applicants' claims. Claim 1 recites in part "customizing a computer program for the user; and downloading the customized computer program to the [user's] terminal for execution by the terminal while the terminal's communication is on hold." Similarly, claim 18 recites "receiving at the [user's] terminal a computer program customized for the user from the communication entity" that put the communication on hold, and "executing the received computer program at the terminal while the communication [with the entity] is on hold." While Beck et al. customize the self-help wizard program for the client user, they execute the wizard in the enterprise system (call center) and not in the user's terminal. This contradicts applicants' claims. What Beck et al. download to and execute on the user's terminal are media enablers, which are not customized for the user. This also contradicts applicants' claims. A client who interacts

with the wizard while on-hold/in-queue interacts with the communications center of Beck et al. This destroys the benefits achieved by the claimed invention.

Since the teaching of Beck et al. contradicts the recitations of the claims, Beck et al. do not anticipate the claims.

D. Beck et al. and Matsumoto do not render the claimed invention obvious.

The Examiner cited Matsumoto for supplementing the teaching of Beck et al. with respect to some of the dependent claims by teaching the alerting of a user that a communication is about to be taken off-hold and the ceasing of program execution in response to the communication being taken off-hold. This is not correct. Matsumoto discloses a facsimile apparatus that is connected to a host computer by a communications interface via which the host computer can control the facsimile apparatus. The facsimile apparatus can operate in one of two modes: on-line and off-line. In response to a first command from the host computer, the facsimile apparatus operates in the on-line mode wherein processing of commands from the host computer takes precedence over operations from the facsimile apparatus' own controller. In response to a second command from the host computer, the facsimile apparatus operates in the off-line mode wherein it operates as an ordinary facsimile apparatus under the control of its own controller.

The passages of Matsumoto referenced by the Examiner as disclosing the alerting and the ceasing in fact do not disclose anything of the kind. Col. 4, lines 2-6, merely indicate that, upon receipt of a Reserve Unit command from a host computer, the facsimile apparatus checks its internal state, notifies the facsimile apparatus (i.e., itself) of any change in status, and enters the on-line mode of operation where processing of commands from the host computer takes precedence over operations from the facsimile apparatus' own operation section. Col. 4, lines 32-44,

merely indicate that, upon receipt of a Release Unit command from the host computer, the facsimile apparatus shifts from the on-line mode of operation to the off-line mode in which this facsimile apparatus is operated as an ordinary facsimile apparatus. Nothing is said about on-hold or off-hold operation.

Presumably, the Examiner is equating on-hold and off-hold operation of the application with on-line and off-line operation of Matsumoto. This equation is unjustified. As the above discussion of Matsumoto shows, the difference between on-line and off-line operation is whether the host computer or the facsimile apparatus' own operation section is controlling the facsimile apparatus. In contrast, on-hold and off-hold has nothing to do with control. "Hold" is a term of the communications arts signifying the maintaining of a communication's established connection while not serving that communication, e.g., while serving another connection's communication. Thus, "on-hold" signifies a connection that is waiting to be served while "off-hold" signifies a connection that is being served. It should therefore be evident that Matsumoto's on-line and off-line operational modes do not correspond to the on-hold and off-hold states of our claims. Consequently, Matsumoto does not supplement the teachings of Beck et al. in any way relevant to the claimed invention.

But even if Matsumoto could somehow be interpreted to disclose "ceasing execution of the downloaded program in response to taking the communication off hold" or "alerting the user that the communication is about to be taken off hold" as suggested by the Examiner, Matsumoto would still not compensate for Beck et al.'s failure to anticipate the basic invention. Hence, the combined teachings of Beck et al. and Matsumoto also fail to render the claims unpatentable.

CONCLUSION

For the reasons stated above, applicants respectfully assert that the Section 102(e) and 103(a) rejections of their claims are not well founded. Applicants therefore respectfully request that these rejections of their appealed claims be reversed.

Respectfully submitted,

A.D. Flockhart
E.P. Mathews
J.Z. Taylor

By _____
David Volejnicek
Corporate Counsel
Reg. No. 29355
303-538-4154

Date: 4-May 2004
Avaya Inc.
Docket Administrator
307 Middletown-Lincroft Road
Room 1N-391
Lincroft, NJ 0773

THE APPEALED CLAIMS

1. A communications method comprising:

putting a communication from a user's terminal on hold;

customizing a computer program for the user; and

downloading the customized computer program to the terminal for execution by the terminal while the terminal's communication is on hold.

2. The method of claim 1 further comprising:

in response to the downloading, the terminal executing the downloaded program while the terminal's communication is on hold;

taking the communication off hold; and

in response to the taking, the terminal ceasing execution of the downloaded program.

3. The method of claim 1 wherein:

putting the communication on hold comprises one of

(a) a handler of the communication putting the communication on hold, and

(b) in response to receiving the communication, enqueueing the communication until a resource becomes available to handle the communication.

4. The method of claim 1 further comprising:

taking the communication off hold; and

prior to taking the communication off hold, alerting the user that the communication is about to be taken off hold.

5. The method of claim 1 wherein:

putting the communication on hold comprises

negotiating with the terminal an amount of time that the

communication will remain on hold.

6. The method of claim 5 wherein:
customizing a computer program comprises
selecting a computer program that can be executed within the negotiated amount of time.

7. The method of claim 5 wherein:
downloading a computer program includes
downloading a countdown program whose execution indicates to the user progress of expiration of the negotiated amount of time.

8. The method of claim 7 further comprising:
in response to a change in conditions affecting the amount of time that the communication will remain on hold, adjusting the amount of time indicated by the countdown program to reflect the change.

9. The method of claim 1 wherein:
customizing a computer program comprises
estimating an amount of time that the communication will remain on hold; and
selecting a computer program that can be executed within the estimated amount of time.

10. The method of claim 9 wherein:
downloading a computer program includes
downloading a countdown program whose execution indicates to the user progress of expiration of the estimated amount of time.

11. The method of claim 10 further comprising:
in response to a change in conditions affecting the amount of time

that the communication will remain on hold, adjusting the amount of time indicated by the countdown program to reflect the change.

12. The method of claim 1 wherein:
customizing a computer program comprises
selecting a presentation program, whose execution presents information to the user.

13. The method of claim 1 wherein:
customizing a computer program comprises
selecting an interactive program whose execution causes the terminal to interact with the user.

14. The method of claim 13 further comprising:
receiving from the terminal information gathered at the terminal via said execution of the downloaded program.

15. The method of claim 1 wherein:
customizing a computer program comprises
identifying at least one of the user and the terminal; and
customizing the computer program for the identified at least one of the user and the terminal.

16. The method of claim 1 wherein:
customizing a computer program comprises
identifying a universal resource locator (URL) of a Web page from which the user initiated the communication; and
customizing the computer program for the identified URL.

17. The method of claim 1 wherein:
putting a communication on hold comprises

putting on hold a voice or a data call between the terminal and a call center.

18. A communications method comprising:

having a communication between a user's terminal and a communications entity put on hold by the communications entity;

receiving at the terminal a computer program customized for the user from the communications entity; and

executing the received computer program at the terminal while the communication is on hold.

19. The method of claim 18 wherein:

having a communication put on hold comprises

negotiating with the communications entity an amount of time that the communication will remain on hold.

20. The method of claim 18 further comprising:

having the communication taken off hold by the communications entity; and

in response, the terminal ceasing execution of the received computer program.

21. The method of claim 20 wherein:

executing comprises

interacting with the user by executing an interactive said received computer program; and

ceasing execution comprises

sending to the communications entity information gathered from the user via the interacting.

22. The method of claim 18 further comprising:

having the communication taken off hold by the communications entity;

prior to having the communication taken off hold, the terminal receiving notification from the communications entity that the communication is about to be taken off hold; and

in response, the terminal alerting the user.

23. An apparatus that performs the method of claim 1 or 3 or 4 or 5 or 6 or 7 or 8 or 9 or 10 or 11 or 12 or 13 or 14 or 15 or 16 or 17.

24. The apparatus of claim 23 comprising an automatic call distributor.

25. An apparatus that performs the method of claim 18 or 19 or 20 or 21 or 22.

26. The apparatus of claim 21 comprising a user communications terminal.

27. A computer-readable medium contain software which, when executed in a computer, causes the computer to perform the method of claim 1 or 2 or 3 or 4 or 5 or 6 or 7 or 8 or 9 or 10 or 11 or 12 or 13 or 14 or 15 or 16 or 17 or 18 or 19 or 20 or 21 or 22.

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